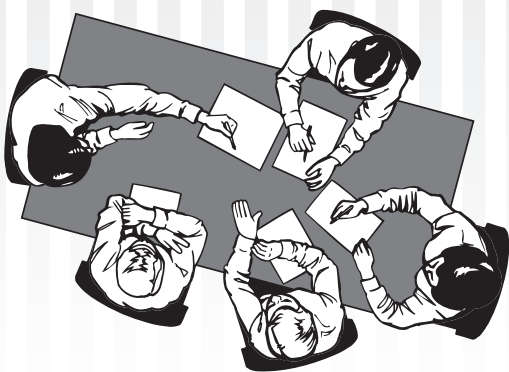


Going to Small Claims Court?

What do you know about **Mediation?**



What you should know
before you file your claim
or go to Small Claims

What is Mediation?

The District Court of the Third Circuit and the Ku'ikahi Mediation Center (KMC) and West Hawai'i Mediation Services (WHMS) have established a successful program of mediation in Small Claims Court. Mediation is an alternative method of resolving a dispute and has several advantages over the usual judicial process.

- **YOU DECIDE.** Once a judge makes a decision in a Small Claims case, at least one party (and sometimes both parties) leaves unhappy. There is no right of appeal. In mediation, you and the other party, with the help of a mediator, decide what is a fair solution. This way, you avoid the risk of “losing” in court or reaching an outcome which does not meet your satisfaction.
- **CUSTOMIZED SOLUTIONS.** Even if you “win” your case, the court does not collect the money for you. In mediation, a mediator can help you develop a “customized” agreement that meets the special circumstances of you and the other party (including a clear payment plan). The agreement may become a record of the court and each party will receive a copy.
- **CONFIDENTIAL.** A court judgment may appear on your credit records. Everything you say or write in mediation is strictly confidential.
- **NO COST.** There is no extra charge for mediation at the court.
- **A TRIAL IS STILL AN OPTION.** If you are not happy with the judge's decision, you can't change it. If you are not able to reach an agreement through mediation, you can return to court.

How does Mediation Work?

Cases that cannot reach agreement (contested) on the Small Claims calendar will be referred to mediation.

If you want to try to settle your dispute through mediation **before** filing a claim, you may directly contact the Ku'ikahi Mediation Center or West Hawai'i Mediation Services.

Who are the Mediators?

Mediators are neutral third parties who provide a structure and environment to assist with communication and help identify key facts and issues of the parties. Mediators also help develop options to move towards agreements that are acceptable to both sides. All Small Claims mediators are trained volunteers from Ku'ikahi Mediation Center or West Hawai'i Mediation Services.

Mediating at Court

Depending on the complexity of your case and resource availability, you may be able to mediate your case at the Court site on the day of your hearing.

District Court of the Third Circuit

Hilo: 75 Aupuni Street, Room 205, Hilo, HI 96720

Kohala: 67-5187 Kamamalu Street, Kamuela, HI 96743

Kona: 79-7595 Haukapila Street, P.O. Box 9017,
Kealahou, HI 96750

What are Ku'ikahi Mediation Center and West Hawai'i Mediation Services?

KU'IKAHl MEDIATION CENTER (KMC) and **WEST HAWAII MEDIATION SERVICES (WHMS)** are programs that help people resolve conflicts of all types. KMC and WHMS use trained volunteer mediators to work with the parties involved in the disputes. KMC has been serving the community since 1983, WHMS since 1988, and have mediated thousands of cases.

The process for mediating a problem or potential small claims dispute at KMC or WHMS is simple.

- In **East Hawai'i** call **KMC at 935-7844**, in **West Hawai'i** call **WHMS at 885-5525** and say you would like to mediate a dispute;
- You will be required to provide some background information about yourself and the dispute, as well as the names and telephone numbers of others involved;
- A KMC or WHMS case manager will then contact the others and determine if they are willing to mediate (mediation at KMC and WHMS is voluntary unless ordered by the judge);
- If everyone agrees to mediation, then a meeting will be scheduled at a convenient time, either during the day or evening.



KU'IKAHl MEDIATION CENTER
300 W. LANIKAULA STREET
HILO, HAWAII 96720
935-7844



WEST HAWAII MEDIATION SERVICES
P.O. BOX 7020
KAMUELA, HAWAII
885-5525/326-2666

Are there advantages to mediating at the Mediation Centers?

Yes. Some of the advantages you should consider about mediating before filing a claim are:

Convenience

Small Claims Court assigns you a date and court starts at 8:30 a.m.

or 9:00 a.m. depending on the division. Due to the large number of cases in court and the set time period for Small Claims cases, the Court may refer parties to mediation. Mediation at court is limited to twenty or thirty minutes. Mediating at the Ku'ikahi Mediation Center (KMC) or West Hawai'i Mediation Services (WHMS) allows you to take the time you feel is necessary to provide all relevant information and work towards an agreement that both parties can live with. At KMC and WHMS, you can schedule your mediation at a time that is convenient for you. (You do not have to mediate again at Court, if you tried mediating at KMC or WHMS.)

Money

The cost for mediating at KMC or WHMS is a nominal administrative

fee. Small Claims requires payment of a filing fee, as well as a charge for having a sheriff "serve" the other party with the complaint (if a sheriff is used).

How do I prepare for Mediation?

Effective mediation requires two-way communication. This means:

- **Honestly expressing your needs; and**
- **Listening to what the other party needs.**

The keys to a successful mediation are:

- **Cooperation; and**
- **Flexibility**

The following suggestions will help you reach a fair agreement:

- **Don't have a "win or lose" attitude;**
- **Be open to new ideas or suggestions; don't be fixed on a specific outcome;**
- **Don't lay blame or seek revenge;**
- **Look to the future, not the past;**
- **Express and listen. Help others understand you, and do your best to understand them.**
- **Bring all relevant documents.**

